

1 AN ACT concerning firearms.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Section 8 and by adding Section 8.2 as
6 follows:

7 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

8 Sec. 8. The Department of State Police has authority to
9 deny an application for or to revoke and seize a Firearm
10 Owner's Identification Card previously issued under this Act
11 only if the Department finds that the applicant or the person
12 to whom such card was issued is or was at the time of issuance:

13 (a) A person under 21 years of age who has been convicted
14 of a misdemeanor other than a traffic offense or adjudged
15 delinquent;

16 (b) A person under 21 years of age who does not have the
17 written consent of his parent or guardian to acquire and
18 possess firearms and firearm ammunition, or whose parent or
19 guardian has revoked such written consent, or where such parent
20 or guardian does not qualify to have a Firearm Owner's
21 Identification Card;

22 (c) A person convicted of a felony under the laws of this
23 or any other jurisdiction;

1 (d) A person addicted to narcotics;

2 (e) A person who has been a patient of a mental institution
3 within the past 5 years or has been adjudicated as a mental
4 defective;

5 (f) A person whose mental condition is of such a nature
6 that it poses a clear and present danger to the applicant, any
7 other person or persons or the community;

8 For the purposes of this Section, "mental condition" means
9 a state of mind manifested by violent, suicidal, threatening or
10 assaultive behavior.

11 (g) A person who is mentally retarded;

12 (h) A person who intentionally makes a false statement in
13 the Firearm Owner's Identification Card application;

14 (i) An alien who is unlawfully present in the United States
15 under the laws of the United States;

16 (i-5) An alien who has been admitted to the United States
17 under a non-immigrant visa (as that term is defined in Section
18 101(a)(26) of the Immigration and Nationality Act (8 U.S.C.
19 1101(a)(26))), except that this subsection (i-5) does not apply
20 to any alien who has been lawfully admitted to the United
21 States under a non-immigrant visa if that alien is:

22 (1) admitted to the United States for lawful hunting or
23 sporting purposes;

24 (2) an official representative of a foreign government
25 who is:

26 (A) accredited to the United States Government or

1 the Government's mission to an international
2 organization having its headquarters in the United
3 States; or

4 (B) en route to or from another country to which
5 that alien is accredited;

6 (3) an official of a foreign government or
7 distinguished foreign visitor who has been so designated by
8 the Department of State;

9 (4) a foreign law enforcement officer of a friendly
10 foreign government entering the United States on official
11 business; or

12 (5) one who has received a waiver from the Attorney
13 General of the United States pursuant to 18 U.S.C.
14 922 (y) (3);

15 (j) (Blank) ~~A person who is subject to an existing order of~~
16 ~~protection prohibiting him or her from possessing a firearm;~~

17 (k) A person who has been convicted within the past 5 years
18 of battery, assault, aggravated assault, violation of an order
19 of protection, or a substantially similar offense in another
20 jurisdiction, in which a firearm was used or possessed;

21 (l) A person who has been convicted of domestic battery or
22 a substantially similar offense in another jurisdiction
23 committed on or after January 1, 1998;

24 (m) A person who has been convicted within the past 5 years
25 of domestic battery or a substantially similar offense in
26 another jurisdiction committed before January 1, 1998;

1 (n) A person who is prohibited from acquiring or possessing
2 firearms or firearm ammunition by any Illinois State statute or
3 by federal law;

4 (o) A minor subject to a petition filed under Section 5-520
5 of the Juvenile Court Act of 1987 alleging that the minor is a
6 delinquent minor for the commission of an offense that if
7 committed by an adult would be a felony; or

8 (p) An adult who had been adjudicated a delinquent minor
9 under the Juvenile Court Act of 1987 for the commission of an
10 offense that if committed by an adult would be a felony.

11 (Source: P.A. 95-581, eff. 6-1-08.)

12 (430 ILCS 65/8.2 new)

13 Sec. 8.2. Firearm Owner's Identification Card denial or
14 revocation. The Department of State Police shall deny an
15 application or shall revoke and seize a Firearm Owner's
16 Identification Card previously issued under this Act if the
17 Department finds that the applicant or person to whom such card
18 was issued is or was at the time of issuance subject to an
19 existing order of protection.

20 Section 10. The Code of Criminal Procedure of 1963 is
21 amended by changing Section 112A-14 as follows:

22 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

23 Sec. 112A-14. Order of protection; remedies.

1 (a) Issuance of order. If the court finds that petitioner
2 has been abused by a family or household member, as defined in
3 this Article, an order of protection prohibiting such abuse
4 shall issue; provided that petitioner must also satisfy the
5 requirements of one of the following Sections, as appropriate:
6 Section 112A-17 on emergency orders, Section 112A-18 on interim
7 orders, or Section 112A-19 on plenary orders. Petitioner shall
8 not be denied an order of protection because petitioner or
9 respondent is a minor. The court, when determining whether or
10 not to issue an order of protection, shall not require physical
11 manifestations of abuse on the person of the victim.
12 Modification and extension of prior orders of protection shall
13 be in accordance with this Article.

14 (b) Remedies and standards. The remedies to be included in
15 an order of protection shall be determined in accordance with
16 this Section and one of the following Sections, as appropriate:
17 Section 112A-17 on emergency orders, Section 112A-18 on interim
18 orders, and Section 112A-19 on plenary orders. The remedies
19 listed in this subsection shall be in addition to other civil
20 or criminal remedies available to petitioner.

21 (1) Prohibition of abuse. Prohibit respondent's
22 harassment, interference with personal liberty,
23 intimidation of a dependent, physical abuse or willful
24 deprivation, as defined in this Article, if such abuse has
25 occurred or otherwise appears likely to occur if not
26 prohibited.

1 (2) Grant of exclusive possession of residence.
2 Prohibit respondent from entering or remaining in any
3 residence or household of the petitioner, including one
4 owned or leased by respondent, if petitioner has a right to
5 occupancy thereof. The grant of exclusive possession of the
6 residence shall not affect title to real property, nor
7 shall the court be limited by the standard set forth in
8 Section 701 of the Illinois Marriage and Dissolution of
9 Marriage Act.

10 (A) Right to occupancy. A party has a right to
11 occupancy of a residence or household if it is solely
12 or jointly owned or leased by that party, that party's
13 spouse, a person with a legal duty to support that
14 party or a minor child in that party's care, or by any
15 person or entity other than the opposing party that
16 authorizes that party's occupancy (e.g., a domestic
17 violence shelter). Standards set forth in subparagraph
18 (B) shall not preclude equitable relief.

19 (B) Presumption of hardships. If petitioner and
20 respondent each has the right to occupancy of a
21 residence or household, the court shall balance (i) the
22 hardships to respondent and any minor child or
23 dependent adult in respondent's care resulting from
24 entry of this remedy with (ii) the hardships to
25 petitioner and any minor child or dependent adult in
26 petitioner's care resulting from continued exposure to

1 the risk of abuse (should petitioner remain at the
2 residence or household) or from loss of possession of
3 the residence or household (should petitioner leave to
4 avoid the risk of abuse). When determining the balance
5 of hardships, the court shall also take into account
6 the accessibility of the residence or household.
7 Hardships need not be balanced if respondent does not
8 have a right to occupancy.

9 The balance of hardships is presumed to favor
10 possession by petitioner unless the presumption is
11 rebutted by a preponderance of the evidence, showing
12 that the hardships to respondent substantially
13 outweigh the hardships to petitioner and any minor
14 child or dependent adult in petitioner's care. The
15 court, on the request of petitioner or on its own
16 motion, may order respondent to provide suitable,
17 accessible, alternate housing for petitioner instead
18 of excluding respondent from a mutual residence or
19 household.

20 (3) Stay away order and additional prohibitions. Order
21 respondent to stay away from petitioner or any other person
22 protected by the order of protection, or prohibit
23 respondent from entering or remaining present at
24 petitioner's school, place of employment, or other
25 specified places at times when petitioner is present, or
26 both, if reasonable, given the balance of hardships.

1 Hardships need not be balanced for the court to enter a
2 stay away order or prohibit entry if respondent has no
3 right to enter the premises.

4 If an order of protection grants petitioner exclusive
5 possession of the residence, or prohibits respondent from
6 entering the residence, or orders respondent to stay away
7 from petitioner or other protected persons, then the court
8 may allow respondent access to the residence to remove
9 items of clothing and personal adornment used exclusively
10 by respondent, medications, and other items as the court
11 directs. The right to access shall be exercised on only one
12 occasion as the court directs and in the presence of an
13 agreed-upon adult third party or law enforcement officer.

14 (4) Counseling. Require or recommend the respondent to
15 undergo counseling for a specified duration with a social
16 worker, psychologist, clinical psychologist, psychiatrist,
17 family service agency, alcohol or substance abuse program,
18 mental health center guidance counselor, agency providing
19 services to elders, program designed for domestic violence
20 abusers or any other guidance service the court deems
21 appropriate. The court may order the respondent in any
22 intimate partner relationship to report to an Illinois
23 Department of Human Services protocol approved partner
24 abuse intervention program for an assessment and to follow
25 all recommended treatment.

26 (5) Physical care and possession of the minor child. In

1 order to protect the minor child from abuse, neglect, or
2 unwarranted separation from the person who has been the
3 minor child's primary caretaker, or to otherwise protect
4 the well-being of the minor child, the court may do either
5 or both of the following: (i) grant petitioner physical
6 care or possession of the minor child, or both, or (ii)
7 order respondent to return a minor child to, or not remove
8 a minor child from, the physical care of a parent or person
9 in loco parentis.

10 If a court finds, after a hearing, that respondent has
11 committed abuse (as defined in Section 112A-3) of a minor
12 child, there shall be a rebuttable presumption that
13 awarding physical care to respondent would not be in the
14 minor child's best interest.

15 (6) Temporary legal custody. Award temporary legal
16 custody to petitioner in accordance with this Section, the
17 Illinois Marriage and Dissolution of Marriage Act, the
18 Illinois Parentage Act of 1984, and this State's Uniform
19 Child-Custody Jurisdiction and Enforcement Act.

20 If a court finds, after a hearing, that respondent has
21 committed abuse (as defined in Section 112A-3) of a minor
22 child, there shall be a rebuttable presumption that
23 awarding temporary legal custody to respondent would not be
24 in the child's best interest.

25 (7) Visitation. Determine the visitation rights, if
26 any, of respondent in any case in which the court awards

1 physical care or temporary legal custody of a minor child
2 to petitioner. The court shall restrict or deny
3 respondent's visitation with a minor child if the court
4 finds that respondent has done or is likely to do any of
5 the following: (i) abuse or endanger the minor child during
6 visitation; (ii) use the visitation as an opportunity to
7 abuse or harass petitioner or petitioner's family or
8 household members; (iii) improperly conceal or detain the
9 minor child; or (iv) otherwise act in a manner that is not
10 in the best interests of the minor child. The court shall
11 not be limited by the standards set forth in Section 607.1
12 of the Illinois Marriage and Dissolution of Marriage Act.
13 If the court grants visitation, the order shall specify
14 dates and times for the visitation to take place or other
15 specific parameters or conditions that are appropriate. No
16 order for visitation shall refer merely to the term
17 "reasonable visitation".

18 Petitioner may deny respondent access to the minor
19 child if, when respondent arrives for visitation,
20 respondent is under the influence of drugs or alcohol and
21 constitutes a threat to the safety and well-being of
22 petitioner or petitioner's minor children or is behaving in
23 a violent or abusive manner.

24 If necessary to protect any member of petitioner's
25 family or household from future abuse, respondent shall be
26 prohibited from coming to petitioner's residence to meet

1 the minor child for visitation, and the parties shall
2 submit to the court their recommendations for reasonable
3 alternative arrangements for visitation. A person may be
4 approved to supervise visitation only after filing an
5 affidavit accepting that responsibility and acknowledging
6 accountability to the court.

7 (8) Removal or concealment of minor child. Prohibit
8 respondent from removing a minor child from the State or
9 concealing the child within the State.

10 (9) Order to appear. Order the respondent to appear in
11 court, alone or with a minor child, to prevent abuse,
12 neglect, removal or concealment of the child, to return the
13 child to the custody or care of the petitioner or to permit
14 any court-ordered interview or examination of the child or
15 the respondent.

16 (10) Possession of personal property. Grant petitioner
17 exclusive possession of personal property and, if
18 respondent has possession or control, direct respondent to
19 promptly make it available to petitioner, if:

20 (i) petitioner, but not respondent, owns the
21 property; or

22 (ii) the parties own the property jointly; sharing
23 it would risk abuse of petitioner by respondent or is
24 impracticable; and the balance of hardships favors
25 temporary possession by petitioner.

26 If petitioner's sole claim to ownership of the property

1 is that it is marital property, the court may award
2 petitioner temporary possession thereof under the
3 standards of subparagraph (ii) of this paragraph only if a
4 proper proceeding has been filed under the Illinois
5 Marriage and Dissolution of Marriage Act, as now or
6 hereafter amended.

7 No order under this provision shall affect title to
8 property.

9 (11) Protection of property. Forbid the respondent
10 from taking, transferring, encumbering, concealing,
11 damaging or otherwise disposing of any real or personal
12 property, except as explicitly authorized by the court, if:

13 (i) petitioner, but not respondent, owns the
14 property; or

15 (ii) the parties own the property jointly, and the
16 balance of hardships favors granting this remedy.

17 If petitioner's sole claim to ownership of the property
18 is that it is marital property, the court may grant
19 petitioner relief under subparagraph (ii) of this
20 paragraph only if a proper proceeding has been filed under
21 the Illinois Marriage and Dissolution of Marriage Act, as
22 now or hereafter amended.

23 The court may further prohibit respondent from
24 improperly using the financial or other resources of an
25 aged member of the family or household for the profit or
26 advantage of respondent or of any other person.

1 (11.5) Protection of animals. Grant the petitioner the
2 exclusive care, custody, or control of any animal owned,
3 possessed, leased, kept, or held by either the petitioner
4 or the respondent or a minor child residing in the
5 residence or household of either the petitioner or the
6 respondent and order the respondent to stay away from the
7 animal and forbid the respondent from taking,
8 transferring, encumbering, concealing, harming, or
9 otherwise disposing of the animal.

10 (12) Order for payment of support. Order respondent to
11 pay temporary support for the petitioner or any child in
12 the petitioner's care or custody, when the respondent has a
13 legal obligation to support that person, in accordance with
14 the Illinois Marriage and Dissolution of Marriage Act,
15 which shall govern, among other matters, the amount of
16 support, payment through the clerk and withholding of
17 income to secure payment. An order for child support may be
18 granted to a petitioner with lawful physical care or
19 custody of a child, or an order or agreement for physical
20 care or custody, prior to entry of an order for legal
21 custody. Such a support order shall expire upon entry of a
22 valid order granting legal custody to another, unless
23 otherwise provided in the custody order.

24 (13) Order for payment of losses. Order respondent to
25 pay petitioner for losses suffered as a direct result of
26 the abuse. Such losses shall include, but not be limited

1 to, medical expenses, lost earnings or other support,
2 repair or replacement of property damaged or taken,
3 reasonable attorney's fees, court costs and moving or other
4 travel expenses, including additional reasonable expenses
5 for temporary shelter and restaurant meals.

6 (i) Losses affecting family needs. If a party is
7 entitled to seek maintenance, child support or
8 property distribution from the other party under the
9 Illinois Marriage and Dissolution of Marriage Act, as
10 now or hereafter amended, the court may order
11 respondent to reimburse petitioner's actual losses, to
12 the extent that such reimbursement would be
13 "appropriate temporary relief", as authorized by
14 subsection (a) (3) of Section 501 of that Act.

15 (ii) Recovery of expenses. In the case of an
16 improper concealment or removal of a minor child, the
17 court may order respondent to pay the reasonable
18 expenses incurred or to be incurred in the search for
19 and recovery of the minor child, including but not
20 limited to legal fees, court costs, private
21 investigator fees, and travel costs.

22 (14) Prohibition of entry. Prohibit the respondent
23 from entering or remaining in the residence or household
24 while the respondent is under the influence of alcohol or
25 drugs and constitutes a threat to the safety and well-being
26 of the petitioner or the petitioner's children.

1 (14.5) Prohibition of firearm possession.

2 (a) When a complaint is made under a request for an
3 order of protection, that the respondent has
4 threatened or is likely to use firearms illegally
5 against the petitioner, and the respondent is present
6 in court, or has failed to appear after receiving
7 actual notice, the court shall examine on oath the
8 petitioner, and any witnesses who may be produced. If
9 the court is satisfied that there is any danger of the
10 illegal use of firearms, it shall include in the order
11 of protection the requirement that any firearms and any
12 Firearm Owner's Identification Card in the possession
13 of the respondent, except as provided in subsection
14 (b), be turned over to the local law enforcement agency
15 for safekeeping. If the respondent fails to appear, or
16 refuses or fails to surrender his or her firearms or
17 Firearm Owner's Identification Card, the court shall
18 issue a warrant for seizure of any firearm and any
19 Firearm Owner's Identification Card in the possession
20 of the respondent. The period of safekeeping shall be
21 for a stated period of time not to exceed 2 years. The
22 firearm or firearms and Firearm Owner's Identification
23 Card shall be returned to the respondent at the end of
24 the stated period or at expiration of the order of
25 protection, whichever is sooner.

26 (b) If the respondent is a peace officer as defined

1 in Section 2-13 of the Criminal Code of 1961, the court
2 shall order that any firearms used by the respondent in
3 the performance of his or her duties as a peace officer
4 be surrendered to the chief law enforcement executive
5 of the agency in which the respondent is employed, who
6 shall retain the firearms for safekeeping for the
7 stated period not to exceed 2 years as set forth in the
8 court order.

9 (15) Prohibition of access to records. If an order of
10 protection prohibits respondent from having contact with
11 the minor child, or if petitioner's address is omitted
12 under subsection (b) of Section 112A-5, or if necessary to
13 prevent abuse or wrongful removal or concealment of a minor
14 child, the order shall deny respondent access to, and
15 prohibit respondent from inspecting, obtaining, or
16 attempting to inspect or obtain, school or any other
17 records of the minor child who is in the care of
18 petitioner.

19 (16) Order for payment of shelter services. Order
20 respondent to reimburse a shelter providing temporary
21 housing and counseling services to the petitioner for the
22 cost of the services, as certified by the shelter and
23 deemed reasonable by the court.

24 (17) Order for injunctive relief. Enter injunctive
25 relief necessary or appropriate to prevent further abuse of
26 a family or household member or to effectuate one of the

1 granted remedies, if supported by the balance of hardships.
2 If the harm to be prevented by the injunction is abuse or
3 any other harm that one of the remedies listed in
4 paragraphs (1) through (16) of this subsection is designed
5 to prevent, no further evidence is necessary to establish
6 that the harm is an irreparable injury.

7 (c) Relevant factors; findings.

8 (1) In determining whether to grant a specific remedy,
9 other than payment of support, the court shall consider
10 relevant factors, including but not limited to the
11 following:

12 (i) the nature, frequency, severity, pattern and
13 consequences of the respondent's past abuse of the
14 petitioner or any family or household member,
15 including the concealment of his or her location in
16 order to evade service of process or notice, and the
17 likelihood of danger of future abuse to petitioner or
18 any member of petitioner's or respondent's family or
19 household; and

20 (ii) the danger that any minor child will be abused
21 or neglected or improperly removed from the
22 jurisdiction, improperly concealed within the State or
23 improperly separated from the child's primary
24 caretaker.

25 (2) In comparing relative hardships resulting to the
26 parties from loss of possession of the family home, the

1 court shall consider relevant factors, including but not
2 limited to the following:

3 (i) availability, accessibility, cost, safety,
4 adequacy, location and other characteristics of
5 alternate housing for each party and any minor child or
6 dependent adult in the party's care;

7 (ii) the effect on the party's employment; and

8 (iii) the effect on the relationship of the party,
9 and any minor child or dependent adult in the party's
10 care, to family, school, church and community.

11 (3) Subject to the exceptions set forth in paragraph
12 (4) of this subsection, the court shall make its findings
13 in an official record or in writing, and shall at a minimum
14 set forth the following:

15 (i) That the court has considered the applicable
16 relevant factors described in paragraphs (1) and (2) of
17 this subsection.

18 (ii) Whether the conduct or actions of respondent,
19 unless prohibited, will likely cause irreparable harm
20 or continued abuse.

21 (iii) Whether it is necessary to grant the
22 requested relief in order to protect petitioner or
23 other alleged abused persons.

24 (4) For purposes of issuing an ex parte emergency order
25 of protection, the court, as an alternative to or as a
26 supplement to making the findings described in paragraphs

1 (c) (3) (i) through (c) (3) (iii) of this subsection, may use
2 the following procedure:

3 When a verified petition for an emergency order of
4 protection in accordance with the requirements of Sections
5 112A-5 and 112A-17 is presented to the court, the court
6 shall examine petitioner on oath or affirmation. An
7 emergency order of protection shall be issued by the court
8 if it appears from the contents of the petition and the
9 examination of petitioner that the averments are
10 sufficient to indicate abuse by respondent and to support
11 the granting of relief under the issuance of the emergency
12 order of protection.

13 (5) Never married parties. No rights or
14 responsibilities for a minor child born outside of marriage
15 attach to a putative father until a father and child
16 relationship has been established under the Illinois
17 Parentage Act of 1984. Absent such an adjudication, no
18 putative father shall be granted temporary custody of the
19 minor child, visitation with the minor child, or physical
20 care and possession of the minor child, nor shall an order
21 of payment for support of the minor child be entered.

22 (d) Balance of hardships; findings. If the court finds that
23 the balance of hardships does not support the granting of a
24 remedy governed by paragraph (2), (3), (10), (11), or (16) of
25 subsection (b) of this Section, which may require such
26 balancing, the court's findings shall so indicate and shall

1 include a finding as to whether granting the remedy will result
2 in hardship to respondent that would substantially outweigh the
3 hardship to petitioner from denial of the remedy. The findings
4 shall be an official record or in writing.

5 (e) Denial of remedies. Denial of any remedy shall not be
6 based, in whole or in part, on evidence that:

7 (1) Respondent has cause for any use of force, unless
8 that cause satisfies the standards for justifiable use of
9 force provided by Article VII of the Criminal Code of 1961;

10 (2) Respondent was voluntarily intoxicated;

11 (3) Petitioner acted in self-defense or defense of
12 another, provided that, if petitioner utilized force, such
13 force was justifiable under Article VII of the Criminal
14 Code of 1961;

15 (4) Petitioner did not act in self-defense or defense
16 of another;

17 (5) Petitioner left the residence or household to avoid
18 further abuse by respondent;

19 (6) Petitioner did not leave the residence or household
20 to avoid further abuse by respondent;

21 (7) Conduct by any family or household member excused
22 the abuse by respondent, unless that same conduct would
23 have excused such abuse if the parties had not been family
24 or household members.

25 (Source: P.A. 95-234, eff. 1-1-08; 95-773, eff. 1-1-09.)

1 Section 15. The Illinois Domestic Violence Act of 1986 is
2 amended by changing Section 214 as follows:

3 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

4 Sec. 214. Order of protection; remedies.

5 (a) Issuance of order. If the court finds that petitioner
6 has been abused by a family or household member or that
7 petitioner is a high-risk adult who has been abused, neglected,
8 or exploited, as defined in this Act, an order of protection
9 prohibiting the abuse, neglect, or exploitation shall issue;
10 provided that petitioner must also satisfy the requirements of
11 one of the following Sections, as appropriate: Section 217 on
12 emergency orders, Section 218 on interim orders, or Section 219
13 on plenary orders. Petitioner shall not be denied an order of
14 protection because petitioner or respondent is a minor. The
15 court, when determining whether or not to issue an order of
16 protection, shall not require physical manifestations of abuse
17 on the person of the victim. Modification and extension of
18 prior orders of protection shall be in accordance with this
19 Act.

20 (b) Remedies and standards. The remedies to be included in
21 an order of protection shall be determined in accordance with
22 this Section and one of the following Sections, as appropriate:
23 Section 217 on emergency orders, Section 218 on interim orders,
24 and Section 219 on plenary orders. The remedies listed in this
25 subsection shall be in addition to other civil or criminal

1 remedies available to petitioner.

2 (1) Prohibition of abuse, neglect, or exploitation.
3 Prohibit respondent's harassment, interference with
4 personal liberty, intimidation of a dependent, physical
5 abuse, or willful deprivation, neglect or exploitation, as
6 defined in this Act, or stalking of the petitioner, as
7 defined in Section 12-7.3 of the Criminal Code of 1961, if
8 such abuse, neglect, exploitation, or stalking has
9 occurred or otherwise appears likely to occur if not
10 prohibited.

11 (2) Grant of exclusive possession of residence.
12 Prohibit respondent from entering or remaining in any
13 residence or household of the petitioner, including one
14 owned or leased by respondent, if petitioner has a right to
15 occupancy thereof. The grant of exclusive possession of the
16 residence shall not affect title to real property, nor
17 shall the court be limited by the standard set forth in
18 Section 701 of the Illinois Marriage and Dissolution of
19 Marriage Act.

20 (A) Right to occupancy. A party has a right to
21 occupancy of a residence or household if it is solely
22 or jointly owned or leased by that party, that party's
23 spouse, a person with a legal duty to support that
24 party or a minor child in that party's care, or by any
25 person or entity other than the opposing party that
26 authorizes that party's occupancy (e.g., a domestic

1 violence shelter). Standards set forth in subparagraph
2 (B) shall not preclude equitable relief.

3 (B) Presumption of hardships. If petitioner and
4 respondent each has the right to occupancy of a
5 residence or household, the court shall balance (i) the
6 hardships to respondent and any minor child or
7 dependent adult in respondent's care resulting from
8 entry of this remedy with (ii) the hardships to
9 petitioner and any minor child or dependent adult in
10 petitioner's care resulting from continued exposure to
11 the risk of abuse (should petitioner remain at the
12 residence or household) or from loss of possession of
13 the residence or household (should petitioner leave to
14 avoid the risk of abuse). When determining the balance
15 of hardships, the court shall also take into account
16 the accessibility of the residence or household.
17 Hardships need not be balanced if respondent does not
18 have a right to occupancy.

19 The balance of hardships is presumed to favor
20 possession by petitioner unless the presumption is
21 rebutted by a preponderance of the evidence, showing
22 that the hardships to respondent substantially
23 outweigh the hardships to petitioner and any minor
24 child or dependent adult in petitioner's care. The
25 court, on the request of petitioner or on its own
26 motion, may order respondent to provide suitable,

1 accessible, alternate housing for petitioner instead
2 of excluding respondent from a mutual residence or
3 household.

4 (3) Stay away order and additional prohibitions. Order
5 respondent to stay away from petitioner or any other person
6 protected by the order of protection, or prohibit
7 respondent from entering or remaining present at
8 petitioner's school, place of employment, or other
9 specified places at times when petitioner is present, or
10 both, if reasonable, given the balance of hardships.
11 Hardships need not be balanced for the court to enter a
12 stay away order or prohibit entry if respondent has no
13 right to enter the premises.

14 If an order of protection grants petitioner exclusive
15 possession of the residence, or prohibits respondent from
16 entering the residence, or orders respondent to stay away
17 from petitioner or other protected persons, then the court
18 may allow respondent access to the residence to remove
19 items of clothing and personal adornment used exclusively
20 by respondent, medications, and other items as the court
21 directs. The right to access shall be exercised on only one
22 occasion as the court directs and in the presence of an
23 agreed-upon adult third party or law enforcement officer.

24 (4) Counseling. Require or recommend the respondent to
25 undergo counseling for a specified duration with a social
26 worker, psychologist, clinical psychologist, psychiatrist,

1 family service agency, alcohol or substance abuse program,
2 mental health center guidance counselor, agency providing
3 services to elders, program designed for domestic violence
4 abusers or any other guidance service the court deems
5 appropriate. The Court may order the respondent in any
6 intimate partner relationship to report to an Illinois
7 Department of Human Services protocol approved partner
8 abuse intervention program for an assessment and to follow
9 all recommended treatment.

10 (5) Physical care and possession of the minor child. In
11 order to protect the minor child from abuse, neglect, or
12 unwarranted separation from the person who has been the
13 minor child's primary caretaker, or to otherwise protect
14 the well-being of the minor child, the court may do either
15 or both of the following: (i) grant petitioner physical
16 care or possession of the minor child, or both, or (ii)
17 order respondent to return a minor child to, or not remove
18 a minor child from, the physical care of a parent or person
19 in loco parentis.

20 If a court finds, after a hearing, that respondent has
21 committed abuse (as defined in Section 103) of a minor
22 child, there shall be a rebuttable presumption that
23 awarding physical care to respondent would not be in the
24 minor child's best interest.

25 (6) Temporary legal custody. Award temporary legal
26 custody to petitioner in accordance with this Section, the

1 Illinois Marriage and Dissolution of Marriage Act, the
2 Illinois Parentage Act of 1984, and this State's Uniform
3 Child-Custody Jurisdiction and Enforcement Act.

4 If a court finds, after a hearing, that respondent has
5 committed abuse (as defined in Section 103) of a minor
6 child, there shall be a rebuttable presumption that
7 awarding temporary legal custody to respondent would not be
8 in the child's best interest.

9 (7) Visitation. Determine the visitation rights, if
10 any, of respondent in any case in which the court awards
11 physical care or temporary legal custody of a minor child
12 to petitioner. The court shall restrict or deny
13 respondent's visitation with a minor child if the court
14 finds that respondent has done or is likely to do any of
15 the following: (i) abuse or endanger the minor child during
16 visitation; (ii) use the visitation as an opportunity to
17 abuse or harass petitioner or petitioner's family or
18 household members; (iii) improperly conceal or detain the
19 minor child; or (iv) otherwise act in a manner that is not
20 in the best interests of the minor child. The court shall
21 not be limited by the standards set forth in Section 607.1
22 of the Illinois Marriage and Dissolution of Marriage Act.
23 If the court grants visitation, the order shall specify
24 dates and times for the visitation to take place or other
25 specific parameters or conditions that are appropriate. No
26 order for visitation shall refer merely to the term

1 "reasonable visitation".

2 Petitioner may deny respondent access to the minor
3 child if, when respondent arrives for visitation,
4 respondent is under the influence of drugs or alcohol and
5 constitutes a threat to the safety and well-being of
6 petitioner or petitioner's minor children or is behaving in
7 a violent or abusive manner.

8 If necessary to protect any member of petitioner's
9 family or household from future abuse, respondent shall be
10 prohibited from coming to petitioner's residence to meet
11 the minor child for visitation, and the parties shall
12 submit to the court their recommendations for reasonable
13 alternative arrangements for visitation. A person may be
14 approved to supervise visitation only after filing an
15 affidavit accepting that responsibility and acknowledging
16 accountability to the court.

17 (8) Removal or concealment of minor child. Prohibit
18 respondent from removing a minor child from the State or
19 concealing the child within the State.

20 (9) Order to appear. Order the respondent to appear in
21 court, alone or with a minor child, to prevent abuse,
22 neglect, removal or concealment of the child, to return the
23 child to the custody or care of the petitioner or to permit
24 any court-ordered interview or examination of the child or
25 the respondent.

26 (10) Possession of personal property. Grant petitioner

1 exclusive possession of personal property and, if
2 respondent has possession or control, direct respondent to
3 promptly make it available to petitioner, if:

4 (i) petitioner, but not respondent, owns the
5 property; or

6 (ii) the parties own the property jointly; sharing
7 it would risk abuse of petitioner by respondent or is
8 impracticable; and the balance of hardships favors
9 temporary possession by petitioner.

10 If petitioner's sole claim to ownership of the property
11 is that it is marital property, the court may award
12 petitioner temporary possession thereof under the
13 standards of subparagraph (ii) of this paragraph only if a
14 proper proceeding has been filed under the Illinois
15 Marriage and Dissolution of Marriage Act, as now or
16 hereafter amended.

17 No order under this provision shall affect title to
18 property.

19 (11) Protection of property. Forbid the respondent
20 from taking, transferring, encumbering, concealing,
21 damaging or otherwise disposing of any real or personal
22 property, except as explicitly authorized by the court, if:

23 (i) petitioner, but not respondent, owns the
24 property; or

25 (ii) the parties own the property jointly, and the
26 balance of hardships favors granting this remedy.

1 If petitioner's sole claim to ownership of the property
2 is that it is marital property, the court may grant
3 petitioner relief under subparagraph (ii) of this
4 paragraph only if a proper proceeding has been filed under
5 the Illinois Marriage and Dissolution of Marriage Act, as
6 now or hereafter amended.

7 The court may further prohibit respondent from
8 improperly using the financial or other resources of an
9 aged member of the family or household for the profit or
10 advantage of respondent or of any other person.

11 (11.5) Protection of animals. Grant the petitioner the
12 exclusive care, custody, or control of any animal owned,
13 possessed, leased, kept, or held by either the petitioner
14 or the respondent or a minor child residing in the
15 residence or household of either the petitioner or the
16 respondent and order the respondent to stay away from the
17 animal and forbid the respondent from taking,
18 transferring, encumbering, concealing, harming, or
19 otherwise disposing of the animal.

20 (12) Order for payment of support. Order respondent to
21 pay temporary support for the petitioner or any child in
22 the petitioner's care or custody, when the respondent has a
23 legal obligation to support that person, in accordance with
24 the Illinois Marriage and Dissolution of Marriage Act,
25 which shall govern, among other matters, the amount of
26 support, payment through the clerk and withholding of

1 income to secure payment. An order for child support may be
2 granted to a petitioner with lawful physical care or
3 custody of a child, or an order or agreement for physical
4 care or custody, prior to entry of an order for legal
5 custody. Such a support order shall expire upon entry of a
6 valid order granting legal custody to another, unless
7 otherwise provided in the custody order.

8 (13) Order for payment of losses. Order respondent to
9 pay petitioner for losses suffered as a direct result of
10 the abuse, neglect, or exploitation. Such losses shall
11 include, but not be limited to, medical expenses, lost
12 earnings or other support, repair or replacement of
13 property damaged or taken, reasonable attorney's fees,
14 court costs and moving or other travel expenses, including
15 additional reasonable expenses for temporary shelter and
16 restaurant meals.

17 (i) Losses affecting family needs. If a party is
18 entitled to seek maintenance, child support or
19 property distribution from the other party under the
20 Illinois Marriage and Dissolution of Marriage Act, as
21 now or hereafter amended, the court may order
22 respondent to reimburse petitioner's actual losses, to
23 the extent that such reimbursement would be
24 "appropriate temporary relief", as authorized by
25 subsection (a) (3) of Section 501 of that Act.

26 (ii) Recovery of expenses. In the case of an

1 improper concealment or removal of a minor child, the
2 court may order respondent to pay the reasonable
3 expenses incurred or to be incurred in the search for
4 and recovery of the minor child, including but not
5 limited to legal fees, court costs, private
6 investigator fees, and travel costs.

7 (14) Prohibition of entry. Prohibit the respondent
8 from entering or remaining in the residence or household
9 while the respondent is under the influence of alcohol or
10 drugs and constitutes a threat to the safety and well-being
11 of the petitioner or the petitioner's children.

12 (14.5) Prohibition of firearm possession.

13 (a) When a complaint is made under a request for an
14 order of protection, that the respondent has
15 threatened or is likely to use firearms illegally
16 against the petitioner, and the respondent is present
17 in court, or has failed to appear after receiving
18 actual notice, the court shall examine on oath the
19 petitioner, and any witnesses who may be produced. If
20 the court is satisfied that there is any danger of the
21 illegal use of firearms, it shall issue an order that
22 any firearms and any Firearm Owner's Identification
23 Card in the possession of the respondent, except as
24 provided in subsection (b), be turned over to the local
25 law enforcement agency for safekeeping. If the
26 respondent has failed to appear, the court shall issue

1 a warrant for seizure of any firearm and Firearm
2 Owner's Identification Card in the possession of the
3 respondent. The period of safekeeping shall be for a
4 stated period of time not to exceed 2 years. The
5 firearm or firearms and Firearm Owner's Identification
6 Card shall be returned to the respondent at the end of
7 the stated period or at expiration of the order of
8 protection, whichever is sooner.

9 (b) If the respondent is a peace officer as defined
10 in Section 2-13 of the Criminal Code of 1961, the court
11 shall order that any firearms used by the respondent in
12 the performance of his or her duties as a peace officer
13 be surrendered to the chief law enforcement executive
14 of the agency in which the respondent is employed, who
15 shall retain the firearms for safekeeping for the
16 stated period not to exceed 2 years as set forth in the
17 court order.

18 (15) Prohibition of access to records. If an order of
19 protection prohibits respondent from having contact with
20 the minor child, or if petitioner's address is omitted
21 under subsection (b) of Section 203, or if necessary to
22 prevent abuse or wrongful removal or concealment of a minor
23 child, the order shall deny respondent access to, and
24 prohibit respondent from inspecting, obtaining, or
25 attempting to inspect or obtain, school or any other
26 records of the minor child who is in the care of

1 petitioner.

2 (16) Order for payment of shelter services. Order
3 respondent to reimburse a shelter providing temporary
4 housing and counseling services to the petitioner for the
5 cost of the services, as certified by the shelter and
6 deemed reasonable by the court.

7 (17) Order for injunctive relief. Enter injunctive
8 relief necessary or appropriate to prevent further abuse of
9 a family or household member or further abuse, neglect, or
10 exploitation of a high-risk adult with disabilities or to
11 effectuate one of the granted remedies, if supported by the
12 balance of hardships. If the harm to be prevented by the
13 injunction is abuse or any other harm that one of the
14 remedies listed in paragraphs (1) through (16) of this
15 subsection is designed to prevent, no further evidence is
16 necessary that the harm is an irreparable injury.

17 (c) Relevant factors; findings.

18 (1) In determining whether to grant a specific remedy,
19 other than payment of support, the court shall consider
20 relevant factors, including but not limited to the
21 following:

22 (i) the nature, frequency, severity, pattern and
23 consequences of the respondent's past abuse, neglect
24 or exploitation of the petitioner or any family or
25 household member, including the concealment of his or
26 her location in order to evade service of process or

1 notice, and the likelihood of danger of future abuse,
2 neglect, or exploitation to petitioner or any member of
3 petitioner's or respondent's family or household; and

4 (ii) the danger that any minor child will be abused
5 or neglected or improperly removed from the
6 jurisdiction, improperly concealed within the State or
7 improperly separated from the child's primary
8 caretaker.

9 (2) In comparing relative hardships resulting to the
10 parties from loss of possession of the family home, the
11 court shall consider relevant factors, including but not
12 limited to the following:

13 (i) availability, accessibility, cost, safety,
14 adequacy, location and other characteristics of
15 alternate housing for each party and any minor child or
16 dependent adult in the party's care;

17 (ii) the effect on the party's employment; and

18 (iii) the effect on the relationship of the party,
19 and any minor child or dependent adult in the party's
20 care, to family, school, church and community.

21 (3) Subject to the exceptions set forth in paragraph
22 (4) of this subsection, the court shall make its findings
23 in an official record or in writing, and shall at a minimum
24 set forth the following:

25 (i) That the court has considered the applicable
26 relevant factors described in paragraphs (1) and (2) of

1 this subsection.

2 (ii) Whether the conduct or actions of respondent,
3 unless prohibited, will likely cause irreparable harm
4 or continued abuse.

5 (iii) Whether it is necessary to grant the
6 requested relief in order to protect petitioner or
7 other alleged abused persons.

8 (4) For purposes of issuing an ex parte emergency order
9 of protection, the court, as an alternative to or as a
10 supplement to making the findings described in paragraphs
11 (c) (3) (i) through (c) (3) (iii) of this subsection, may use
12 the following procedure:

13 When a verified petition for an emergency order of
14 protection in accordance with the requirements of Sections
15 203 and 217 is presented to the court, the court shall
16 examine petitioner on oath or affirmation. An emergency
17 order of protection shall be issued by the court if it
18 appears from the contents of the petition and the
19 examination of petitioner that the averments are
20 sufficient to indicate abuse by respondent and to support
21 the granting of relief under the issuance of the emergency
22 order of protection.

23 (5) Never married parties. No rights or
24 responsibilities for a minor child born outside of marriage
25 attach to a putative father until a father and child
26 relationship has been established under the Illinois

1 Parentage Act of 1984, the Illinois Public Aid Code,
2 Section 12 of the Vital Records Act, the Juvenile Court Act
3 of 1987, the Probate Act of 1985, the Revised Uniform
4 Reciprocal Enforcement of Support Act, the Uniform
5 Interstate Family Support Act, the Expedited Child Support
6 Act of 1990, any judicial, administrative, or other act of
7 another state or territory, any other Illinois statute, or
8 by any foreign nation establishing the father and child
9 relationship, any other proceeding substantially in
10 conformity with the Personal Responsibility and Work
11 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),
12 or where both parties appeared in open court or at an
13 administrative hearing acknowledging under oath or
14 admitting by affirmation the existence of a father and
15 child relationship. Absent such an adjudication, finding,
16 or acknowledgement, no putative father shall be granted
17 temporary custody of the minor child, visitation with the
18 minor child, or physical care and possession of the minor
19 child, nor shall an order of payment for support of the
20 minor child be entered.

21 (d) Balance of hardships; findings. If the court finds that
22 the balance of hardships does not support the granting of a
23 remedy governed by paragraph (2), (3), (10), (11), or (16) of
24 subsection (b) of this Section, which may require such
25 balancing, the court's findings shall so indicate and shall
26 include a finding as to whether granting the remedy will result

1 in hardship to respondent that would substantially outweigh the
2 hardship to petitioner from denial of the remedy. The findings
3 shall be an official record or in writing.

4 (e) Denial of remedies. Denial of any remedy shall not be
5 based, in whole or in part, on evidence that:

6 (1) Respondent has cause for any use of force, unless
7 that cause satisfies the standards for justifiable use of
8 force provided by Article VII of the Criminal Code of 1961;

9 (2) Respondent was voluntarily intoxicated;

10 (3) Petitioner acted in self-defense or defense of
11 another, provided that, if petitioner utilized force, such
12 force was justifiable under Article VII of the Criminal
13 Code of 1961;

14 (4) Petitioner did not act in self-defense or defense
15 of another;

16 (5) Petitioner left the residence or household to avoid
17 further abuse, neglect, or exploitation by respondent;

18 (6) Petitioner did not leave the residence or household
19 to avoid further abuse, neglect, or exploitation by
20 respondent;

21 (7) Conduct by any family or household member excused
22 the abuse, neglect, or exploitation by respondent, unless
23 that same conduct would have excused such abuse, neglect,
24 or exploitation if the parties had not been family or
25 household members.

26 (Source: P.A. 95-234, eff. 1-1-08; 95-773, eff. 1-1-09.)